

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HOWARD G. BERNSTEIN *and* MARY Z.
BERNSTEIN,

Plaintiffs,

09cv1580

ELECTRONICALLY FILED

v.

WALGREEN CO. *doing business as*
WALGREENS,

Defendant.

Memorandum Order

This is a negligence/personal injury action which was removed from state court (Allegheny County Court of Common Pleas) by defendant on December 2, 2009. On December 29, 2009, plaintiffs filed a motion to remand said case to state court on the basis that the amount in controversy does not meet the jurisdictional threshold. (Doc. No. 6). After this Court ordered a response, defendant responded in opposition thereto, and plaintiffs thereafter filed two affidavits setting forth their position that the amount in controversy does not meet or exceed the \$75,000.00 jurisdictional threshold. (Doc. Nos. 11 and 12). Plaintiff's counsel also submitted a verification stating the basis for his belief, as legal counsel for plaintiffs, that the amount in controversy does not exceed \$75,000.00, and he has so agreed to "remit any amount in excess of \$75,000.00 should he receive same by verdict." Therefore, the affidavits and verification limit the recovery in this case to less than \$75,000.00. *Frederico v. Home-Depot*, 507 F.3d 188 (3d Cir. 2007).

Accordingly, for these reasons, the Court finds that it appears to a legal certainty that the plaintiffs cannot or will not recover \$75,000.00 jurisdictional amount.

IT IS HEREBY ORDERED that motion to remand the case to state court is GRANTED (doc. no. 6), and the case shall be remanded to the Court of Common Pleas of Allegheny County FORTHWITH. The Clerk shall mark the docket closed.

SO ORDERED this 21st day of January, 2010.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties